

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

DHARMA P. AGRAWAL,  
Plaintiff,

vs.

CARLO MONTEMAGNO, et al.,  
Defendants.

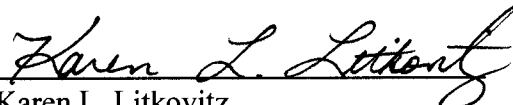
Case No. 1:10-cv-766  
Beckwith, J.  
Litkovitz, M.J.

**ORDER**

This matter is before the Court on the status report of the parties (attached hereto) on plaintiff's pending motion for sanctions based on defendants' alleged failure to provide complete discovery (Doc. 51). Plaintiff has requested an extension of time of 30 days to attempt to resolve the matter with defendants. The request is granted and the parties are ordered to advise the Court by **May 10, 2013** whether the motion will be withdrawn or requires a ruling.

**IT IS SO ORDERED.**

Date: 4/10/13

  
Karen L. Litkovitz  
United States Magistrate Judge

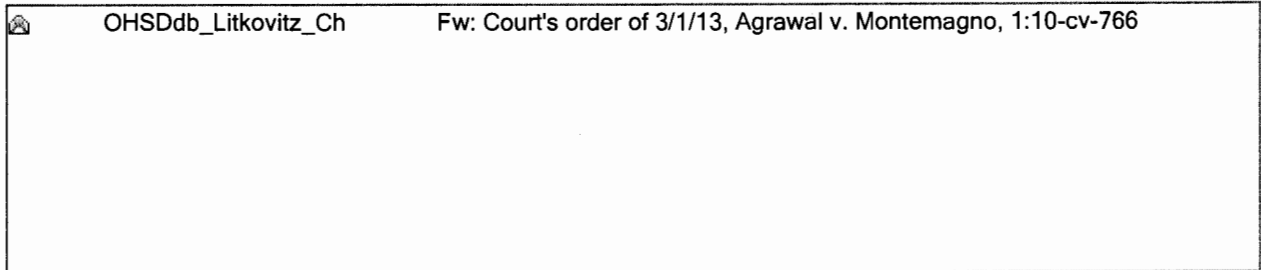


**Fw: Court's order of 3/1/13, Agrawal v. Montemagno, 1:10-cv-766**

OHSDdb\_Litkovitz\_Ch to: Karen Litkovitz, Erica Faaborg  
Sent by: Arthur Hill

04/02/2013 07:59 AM

From: OHSDdb\_Litkovitz\_Ch/OHSD/06/USCOURTS  
To: Karen Litkovitz/OHSD/06/USCOURTS@USCOURTS, Erica  
Faaborg/OHSD/06/USCOURTS@USCOURTS,  
Sent by: Arthur Hill/OHSD/06/USCOURTS



----- Forwarded by Arthur Hill/OHSD/06/USCOURTS on 04/02/2013 07:59 AM -----

From: Philip Judy <Philip.Judy@ohioattorneygeneral.gov>  
To: "litkovitz\_chambers@ohsd.uscourts.gov" <litkovitz\_chambers@ohsd.uscourts.gov>,  
Cc: "joekrause@gmail.com" <joekrause@gmail.com>, "rgutzwiller" <gutzwiller1@aol.com>, "Drew C.  
Piersall" <drew.piersall@ohioattorneygeneral.gov>  
Date: 04/01/2013 04:16 PM  
Subject: RE: Court's order of 3/1/13, Agrawal v. Montemagno, 1:10-cv-766

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Dear Magistrate Judge Litkovitz:

Mr. Gutzwiller's email below, in part, accurately reflects our understanding of his position regarding the motion for sanctions. As it is Plaintiff's Motion, we cannot dictate how he should proceed with the matter.

I would add that the 1000 pages to which he refers were produced on March 19, exactly two weeks after Plaintiff's counsel identified the 23 or 24 among 270 files that he wanted, which files had to be manually located (some of which were stored and located off site) and copied, and then sent to defense counsel and reviewed prior to sending them to plaintiff. Thus, there was no delay in responding to Plaintiff's request.

In the Court's order of March 1, 2013 (Doc. 62), the Court extended the discovery deadline to today for the sole purpose completing the production of documents that came to light during a February 25 deposition, which the Defendants produced almost 2 weeks before the deadline. Although it is not clear from Plaintiff's counsel's email exactly what it is he wishes to have extended 30 days, Defendants do not believe extending the discovery deadline again would be beneficial to this case.

As for the status of matters raised in the motion itself, Defendants have remained in compliance with every deadline and Order in place since the Court's initial order on the matter dated October 30, 2012 (Doc. 54), five months ago. In addition, Defendants are unaware of any outstanding request from

Plaintiff with which Defendants not yet complied. As such, we believe all matters addressed in the original motion have been resolved, some of them long ago. Thus, to answer the question raised in the Court's March 1, 2013 Order, we believe the motion should be withdrawn or denied.

Thank you for your attention to this matter.

Best regards,

Phil Judy

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Office of Ohio Attorney General Mike DeWine  
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**From:** rgutzwiller [mailto:gutzwiller1@aol.com]  
**Sent:** Monday, April 01, 2013 3:08 PM  
**To:** litkovitz\_chambers@ohsd.uscourts.gov  
**Cc:** Philip Judy; joekrause@gmail.com  
**Subject:** Re: Court's order of 3/1/13, Agrawal v. Montemagno, 1:10-cv-766

Magistrate Judge Litkovitz:

This message is in response to the Court's order of 3-1-13 asking whether the plaintiff's motion for sanctions will be withdrawn or require a ruling. At present plaintiff's counsel has not had the opportunity to review the some 1,000 pages of very complex sponsored Research Records sent electronically a few days ago. We simply have not had the time to determine whether the production was responsive to plaintiff's request. Counsel have discussed but not resolved attorney's fee issues relating to the motion. Plaintiff has, however, tendered a settlement offer to the defense, but has not received a response nor a counteroffer. The offer was forwarded March 8. It would seem that it would be premature to take one or the other fork in the road at this moment; perhaps an additional 30 days would resolve the issue.

Yours Very Truly,  
Robert Gutzwiller

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